

AMENDED IN SENATE JUNE 20, 2005

AMENDED IN SENATE JUNE 1, 2005

## Senate Concurrent Resolution

**No. 15**

**Introduced by Senators Morrow, Dunn, and Escutia**

February 9, 2005

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Senate Concurrent Resolution No. 15—Relative to the California Law Revision Commission.

### LEGISLATIVE COUNSEL'S DIGEST

SCR 15, as amended, Morrow. California Law Revision Commission: studies.

Under existing law, the California Law Revision Commission is required to study, and is limited to studying, those topics approved for its study by concurrent resolution of the Legislature.

This measure would authorize the commission to study whether specified laws should be revised, including, as a new topic for study, a comprehensive review of the Code of Civil Procedure and applicable case law in order to clarify the circumstances in which parties are entitled to oral argument. *The measure would require the commission, before commencing work on any project within the calendar of topics the Legislature has authorized or directed the commission to study, to submit a detailed description of the scope of work to the Chairs and Vice Chairs of the Committees on Judiciary of the Senate and Assembly, and if during the course of the project there is a major change to the scope of work, submit a description of the change.*

Fiscal committee: yes.

- 1 WHEREAS, The California Law Revision Commission is
- 2 authorized to study topics set forth in the calendar contained in
- 3 its report to the Governor and the Legislature that have been or

1 are thereafter approved for study by concurrent resolution of the  
2 Legislature, and topics that have been referred to the commission  
3 for study by concurrent resolution of the Legislature or by  
4 statute; and

5 WHEREAS, The commission, in its annual report covering its  
6 activities for 2004 and 2005, recommends continued study of 21  
7 topics, all of which the Legislature has previously authorized or  
8 directed the commission to study, and further recommends  
9 addition of one new topic to its calendar; now, therefore, be it

10 *Resolved by the Senate of the State of California, the Assembly*  
11 *thereof concurring*, That the Legislature approves for continued  
12 study by the California Law Revision Commission the topics  
13 listed below, all of which the Legislature has previously  
14 authorized or directed the commission to study:

15 (1) Whether the law should be revised that relates to creditors'  
16 remedies, including, but not limited to, attachment, garnishment,  
17 execution, repossession of property (including the claim and  
18 delivery statute, self-help repossession of property, and the  
19 Commercial Code provisions on repossession of property),  
20 confession of judgment procedures, default judgment procedures,  
21 enforcement of judgments, the right of redemption, procedures  
22 under private power of sale in a trust deed or mortgage,  
23 possessory and nonpossessory liens, insolvency, and related  
24 matters.

25 (2) Whether the California Probate Code should be revised,  
26 including, but not limited to, the issue of whether California  
27 should adopt, in whole or in part, the Uniform Probate Code, and  
28 related matters.

29 (3) Whether the law should be revised that relates to real and  
30 personal property including, but not limited to, a marketable title  
31 act, covenants, servitudes, conditions, and restrictions on land  
32 use or relating to land, powers of termination, escheat of property  
33 and the disposition of unclaimed or abandoned property, eminent  
34 domain, quiet title actions, abandonment or vacation of public  
35 streets and highways, partition, rights and duties attendant on  
36 assignment, subletting, termination, or abandonment of a lease,  
37 and related matters.

38 (4) Whether the law should be revised that relates to family  
39 law, including, but not limited to, community property, the  
40 adjudication of child and family civil proceedings, child custody,

1 adoption, guardianship, freedom from parental custody and  
2 control, and related matters, including other subjects covered by  
3 the Family Code.

4 (5) Whether the law relating to offers of compromise should  
5 be revised.

6 (6) Whether the law relating to discovery in civil cases should  
7 be revised.

8 (7) Whether the acts governing special assessments for public  
9 improvement should be simplified and unified.

10 (8) Whether the law relating to the rights and disabilities of  
11 minors and incompetent persons should be revised.

12 (9) Whether the Evidence Code should be revised.

13 (10) Whether the law relating to arbitration, mediation, and  
14 other alternative dispute resolution techniques should be revised.

15 (11) Whether there should be changes to administrative law.

16 (12) Whether the law relating to the payment and the shifting  
17 of attorney's fees between litigants should be revised.

18 (13) Whether the Uniform Unincorporated Nonprofit  
19 Association Act, or parts of that uniform act, and related  
20 provisions should be adopted in California.

21 (14) Recommendations to be reported pertaining to statutory  
22 changes that may be necessitated by court unification.

23 (15) Whether the law of contracts should be revised, including  
24 the law relating to the effect of electronic communications on the  
25 law governing contract formation, the statute of frauds, the parol  
26 evidence rule, and related matters.

27 (16) Whether the law governing common interest housing  
28 developments should be revised to clarify the law, eliminate  
29 unnecessary or obsolete provisions, consolidate existing statutes  
30 in one place in the codes, establish a clear, consistent, and unified  
31 policy with regard to formation and management of these  
32 developments and transaction of real property interests located  
33 within them, and to determine to what extent they should be  
34 subject to regulation.

35 (17) Whether the statutes of limitation for legal malpractice  
36 actions should be revised to recognize equitable tolling or other  
37 adjustment for the circumstances of simultaneous litigation, and  
38 related matters.

39 (18) Whether the law governing disclosure of public records  
40 and the law governing protection of privacy in public records

1 should be revised to better coordinate them, including  
2 consolidation and clarification of the scope of required disclosure  
3 and creation of a single set of disclosure procedures, to provide  
4 appropriate enforcement mechanisms, and to ensure that the law  
5 governing disclosure of public records adequately treats  
6 electronic information, and related matters.

7 (19) Whether the law governing criminal sentences for  
8 enhancements relating to weapons or injuries should be revised  
9 to simplify and clarify the law and eliminate unnecessary or  
10 obsolete provisions.

11 (20) Whether the Subdivision Map Act (Division 2  
12 (commencing with Section 66410) of Title 7 of the Government  
13 Code) and the Mitigation Fee Act (Chapter 5 (commencing with  
14 Section 66000), Chapter 6 (commencing with Section 66010),  
15 Chapter 7 (commencing with Section 66012), Chapter 8  
16 (commencing with Section 66016), and Chapter 9 (commencing  
17 with Section 66020) of Division 1 of Title 7 of the Government  
18 Code) should be revised to improve their organization, resolve  
19 inconsistencies, and clarify and rationalize provisions, and  
20 related matters.

21 (21) Whether the Uniform Statute and Rule Construction Act  
22 (1995) should be adopted in California in whole or part, and  
23 related matters; and be it further

24 *Resolved*, That the Legislature approves for study by the  
25 California Law Revision Commission the new topic listed below:

26 A comprehensive review of the Code of Civil Procedure and  
27 applicable case law in order to clarify the circumstances in which  
28 parties are entitled to oral argument, and related matters; and be  
29 it further

30 *RESOLVED*, That before commencing work on any project  
31 within the calendar of topics the Legislature has authorized or  
32 directed the commission to study, the commission shall submit a  
33 detailed description of the scope of work to the Chairs and Vice  
34 Chairs of the Committees on Judiciary of the Senate and  
35 Assembly, and if during the course of the project there is a major  
36 change to the scope of work, submit a description of the change;  
37 and be it further

38 *Resolved*, That the Secretary of the Senate transmit a copy of  
39 this resolution to the California Law Revision Commission; and  
40 be it further

- 1     *Resolved*, That the Secretary of the Senate transmit copies of
- 2     this resolution to the author for appropriate distribution.

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